

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Civil Minutes

Date: November 23, 2020

Judge: Hon. James Donato

Time: 38 Minutes

Case No. **14-CV-03264-JD IN RE CAPACITORS ANTITRUST LITIGATION
17-MDL-02801-JD In re Capacitors Antitrust Litigation (No. III)**

Attorney(s) for Plaintiff(s): Joseph R. Saveri/Steven N. Williams/Anupama Reddy/
Christopher K.L. Young
Attorney(s) for Defendant(s): Bonnie Lau/David Cross/Roberto Finzi/Farrah Berse/
Joseph Bial

Deputy Clerk: Lisa R. Clark

Court Reporter: Debbie Pas

PROCEEDINGS

Status Conference -- Held

NOTES AND ORDERS

The Court holds a status conference by Zoom to discuss the trial in the DPPs' case, which is set to begin on January 19, 2021.

The trial date will not be continued at this time. A status conference is set for December 17, 2020, at 10:00 a.m. by Zoom, to assess COVID-19 issues.

The parties' proposed pretrial schedule, MDL Dkt. No. 1433 at 6-7, is approved, including the December 15, 2020 date for exchanging exhibit lists. The parties may stipulate to short extensions of those deadlines.

The parties will continue to confer on the exhibits admitted in the March trial. MDL Dkt. No. 1433 at 15. The goal is to pre-admit by stipulation as many exhibits as possible to streamline the trial. The Court declines to set a cap on the number of exhibits per side, but expects that the reduced number of parties and issues will be reflected in a smaller number of exhibits.

The Court is disinclined to allow video testimony from the March trial to be played before a new jury. *See* MDL Dkt. No. 1433 at 16-17. The Court may consider tailored replay requests on a case-by-case basis if there are good health and safety reasons for doing so.

Any Japanese witnesses the parties intend to call should be in a position to provide live, remote video testimony from a location such as Hawaii. The Court will explore the possibility of a live testimony location in the U.S. District Courthouse in Honolulu, HI, but the parties should proceed with planning an alternative location.

For Dr. Hal Singer, MDL Dkt. No. 1433 at 14-15, plaintiffs will not elicit any testimony from him that they have acknowledged was not proper in the March trial, *see* Dkt. No. 1244, Ex. A, and they will share any slides with defendants in advance. Plaintiffs are not required to preview for defendants what Dr. Singer's upcoming trial testimony will be. The parties will work together and plaintiffs will ensure compliance with the Court's prior orders on the scope of Dr. Singer's testimony.

For Matsuo's proposed witness Tomohiko Miyata, MDL Dkt. No. 1433 at 10-13, Matsuo will make Miyata available for a remote deposition in Hawaii in the next four weeks. The parties are directed to schedule the deposition by December 2, 2020. Matsuo is responsible for reasonable costs incurred by plaintiffs for the deposition, but each party will bear its own attorney's fees. Matsuo may not call Miyata at trial unless he has testified in a deposition. The parties will meet and confer about Miyata's documents and whether an adequate custodial search was conducted, and they will advise the Court by November 30, 2020, if there are any issues that require the Court's assistance. If Miyata appears at trial in any capacity, Matsuo may not use the 30(b)(6) testimony of Hiroyuki Koga, who Matsuo states is now a former employee.

The parties may use up to 90 minutes per side for opening statements.

The Court will distribute to the parties by December 22 or 23, 2020, the COVID-related questionnaire that will be sent to the jury pool. The parties will be able to review the questionnaire responses, and will have the option of exercising their peremptory strikes based on those written responses or at the in-person voir dire on January 19, 2021. There will be no change in the number of peremptory strikes permitted.